



March 16, 2017

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard,*
MB Docket 16-142

Dear Ms. Dortch:

On March 14, 2017 Michael Calabrese of New America’s Open Technology Institute (OTI), Jonathan Schwantes of Consumers Union, and John Gasparini of Public Knowledge (hereinafter the “Consumer Advocates”), met with David Grossman, Chief of Staff and Media Policy Advisor to Commissioner Mignon Clyburn, concerning the proceeding referenced above.

The Consumer Advocates expressed their agreement with Commissioner Clyburn that the proposed ATSC 3.0 standard has the potential to benefit consumers, yet it also raises numerous questions about how a transition will impact “consumers, pay-TV providers, as well as broadcasters who choose not to upgrade to the new standard.”¹ The Advocates expressed agreement with the Commissioner’s insistence that “complete assurances must be in place, so that consumers will not be burdened with unwanted, unexpected costs.”

More specifically, the Consumer Advocates expressed their concern about whether consumers will continue to receive their local station content in a high-definition, ATSC 1.0 format that is compatible with current television sets. The Advocates also concur with Commissioner Clyburn’s view that it is vital that “that broadcasters’ public interest obligations, including the required number of hours of video description and children’s programming, should apply independently to both the ATSC 3.0 transmission and a station’s 1.0 stream.”²

The Consumer Advocates stated that the ability of local stations to broadcast video content directly to smartphones, tablets and other mobile devices could be very beneficial to consumers. At the same time,

¹ Statement of Commissioner Mignon Clyburn, *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, GN Docket No. 16-142 (Feb. 24, 2017).

² *Ibid* (emphasis in original).

the Advocates expressed their concern that broadcasters could attempt to use their leverage over retransmission consent to coerce MVPDs to carry ATSC 3.0 programming on their platforms, which could both increase the already excessive costs for local broadcast content being passed along to consumers and potentially crowd out independent programming on channels unaffiliated with broadcast networks or station groups. A truly “voluntary” ATSC 3.0 transition must mean, as Commissioner Clyburn stated, that “pay-TV providers not be disadvantaged if they choose not to carry ATSC 3.0 signals.”³

Finally, the Consumer Advocates stated that broadcasters must not be allowed to use ATSC 3.0 to foreclose open and unlicensed public access to the vacant TV band spectrum that is not licensed and in use for free over-the-air local broadcast content. It is important to keep in mind that unlike most other licensees, broadcasters have received their exclusive licenses free of charge for the express purpose of providing free over the air broadcasting to their local communities. The Commission should be very clear that it will not allow private licensees to foreclose the spectrum commons by demanding increased restrictions on TV White Space devices to purportedly protect non-free ancillary or ATSC 3.0 data services.

Respectfully submitted,

/s/ *Michael Calabrese*
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cc: David Grossman

³ *Id.*